

RECEIVED
IN LAKE CHARLES, LA

OCT 11 2006

PAM
ROBERT H. SHEMWELL, CLERK
WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

**BROOKSHIRE BROTHERS
HOLDING, INC., ET AL**

: **DOCKET NO. 04-1150**

VS.

: **JUDGE TRIMBLE**

**TOTAL CONTAINMENT, INC., ET
AL**

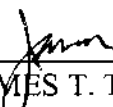
: **MAGISTRATE JUDGE WILSON**

ORDER

Pursuant to the Memorandum Ruling of this date,

IT IS ORDERED that "Dayco and Mark IV's Motion for Summary Judgment Dismissing Plaintiffs' Breach of Implied Warranty of Fitness and Merchantability Claims Under Texas Law" (doc. #449) is hereby **DENIED** as **MOOT**.

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 11th day of October, 2006.



JAMES T. TRIMBLE, JR.
UNITED STATES DISTRICT JUDGE